

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KENYON B. FITZGERALD, JR., PETER
SCOVILLE WELLS, SIDNEY SILLER,
and DISABLED AMERICAN
VETERANS DEPARTMENT OF NEW
YORK, INC.,

Plaintiffs,

v.

WADE F. B. THOMPSON, ELIHU ROSE,
ARIE L. KOPELMAN, STEPHEN LASH,
EDWARD KLEIN, REBECCA
ROBERTSON, KIRSTEN REOCH,
CHARLES GARGANO, WILLIAM
SHERMAN, CAROL BERENS, JOHN
DOE, MARY ROE and SEVENTH
REGIMENT ARMORY
CONSERVANCY, INC.,

Defendants.

Case No. 07 CIV 6851 (BSJ) (DCF)

**DECLARATION OF PEGGY S. CHEN IN SUPPORT OF THE CONSERVANCY
DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

PEGGY S. CHEN declares pursuant to 28 U.S.C. § 1746:

1. I am associated with the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, counsel for defendants Wade F.B. Thompson, Elihu Rose, Arie L. Kopelman, Stephen Lash, Edward Klein, Rebecca Robertson, Kirsten Reoch and the Seventh Regiment Armory Conservancy, Inc. (the "Conservancy Defendants"). I submit this declaration in support of the Conservancy Defendants' Motion to Dismiss the Complaint.
2. Annexed to this declaration are true and correct copies of the following documents:

- Exhibit 1: *Dalva v. Pataki*, No. 116965/05 (N.Y. Sup. Ct. Dec. 11, 2006)
- Exhibit 2: Mem. in Support, N.Y. State Assembly, 2004 N.Y. Laws Ch. 482
- Exhibit 3: *Dalva v. Pataki*, No. 116965/05 (N.Y. Sup. Ct. March 3, 2006)
- Exhibit 4: Mem. of Legis. Rep. of City of New York, 2004 N.Y. Laws Ch. 482
- Exhibit 5: Conservancy Lease, dated Nov. 14, 2006
- Exhibit 6: Affidavit of Kenyon B. Fitzgerald, President of the Seventh Regiment Fund, dated July 16, 2001
- Exhibit 7: Complaint, *Seventh Regiment Fund, v. Pataki*, No. 01-CV-0819 (LTS) (S.D.N.Y. Feb. 1, 2001)
- Exhibit 8: Complaint and Exhibits, *Dalva v. Pataki*, No. 116965/05 (N.Y. Sup. Ct. Dec. 6, 2005)
- Exhibit A: 2004 N.Y. Laws Ch. 482
- Exhibit B: 1874 N.Y. Laws Ch. 234
- Exhibit C: 1874 Lease
- Exhibit D: 1879 N.Y. Laws Ch. 57
- Exhibit E: 1879 Lease
- Exhibit 9: Amended Petition, *Chu v. NYS Urban Development Corp.* 831 N.Y.S.2d 352 (N.Y. Sup. Ct. May 18, 2006)
- Exhibit 10: 1942 N.Y. Laws Ch. 932, § 182
- Exhibit 11: Letter to the Court from Kate D. Levin, dated Oct. 4, 2007
- Exhibit 12: Constitution and Bylaws, 107th Infantry Regiment (Seventh New York) Historical Society, dated October 23, 1964
- Exhibit 13: New Armory Initiative Presentation, dated May 30, 2007
- Exhibit 14: Roll Call Vote in New York State Assembly and New York State Senate, 2004 N.Y. Laws Ch. 482

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on October 4, 2007.

/s/ Peggy S. Chen
Peggy S. Chen